



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,351	12/21/2001	Gilles Rubinstenn	05725.1009-00	4841
22852	7590	06/08/2010		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER BORISSOV, IGOR N				
ART UNIT		PAPER NUMBER		
3628				
MAIL DATE		DELIVERY MODE		
06/08/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GILLES RUBINSTENN and FRANCES PRUCHE

Appeal 2010-000052
Application 10/024,351
Technology Center 3600

Before DALE M. SHAW, *Division 2 Support Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This is a Director ordered remand under 37 CFR §41.35(c) for the matter identified below. Accordingly, the application is herewith being remanded to the Examiner.

This application was electronically received at the Board of Patent Appeals and Interferences on September 28, 2009. A Docketing Notice was mailed and Appeal No. 2010-000052 was assigned on November 23, 2009.

Claims 11, 13, 14 and 17 of the instant application contain functional language that may be indefinite under 35 U.S.C. § 112, 2nd paragraph. *See Ex Parte Rodriquez*, 2009 WL 3756279 (BPAI 2009) and *Aristocrat Techs.*

Austl. Pty. Ltd. v. Int'l. Game Tech., 521 F.3d 1328 (Fed Cir. 2008). On September 2, 2008 the Deputy Commissioner for Patent Examination Policy, John J. Love, issued a memorandum entitled “Rejections under 35 U.S.C. 112, second paragraph, when examining means (or step) plus function claim limitations under 35 U.S.C. 112, sixth paragraph”, located at: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section_112_6th_09_02_2008.pdf . Thus, there is a question as to whether claims 11, 13, 14 and 17 and the claims which depend upon these claims, meet the requirements of being definite under 35 U.S.C. § 112, 2nd paragraph.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 11, 13, 14 and 17 and the claims which depend upon these claims, meet the requirements of 35 U.S.C. § 112, 2nd paragraph.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/mls

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413